

REMARKS

Claims 1-50 now stand in the application, new claims 47-50 having been added. Applicant acknowledges with appreciation the indication of allowable subject matter in claims 15, 18, 19, 21, 23, 34, 36 and 37, but respectfully requests reconsideration of the application and allowance of all claims in view of the above amendments and the following remarks.

Claims 1-4, 6-8, 11, 13, 14, 25, 26, 28-30, 32, 33, 38 and 40-46 are rejected for obviousness over Tiedemann et al (WO 99/13675) in view of Park et al (US 2003/0013476). Claims 5, 27, 12 and 31 are rejected as unpatentable over Tiedemann et al in view of Park et al and further in view of Davis et al (USP 6,260,062). Claims 9 and 10 are rejected as unpatentable over Tiedemann et al in view of Park et al, and further in view of Takeo (USP 6,385,183). Claims 16, 17, 20, 24 and 35 are rejected as unpatentable over Tiedemann in view of Park et al and further in view of Akatsu et al (USP 6,505,255). Claims 39 and 53 are rejected as unpatentable over Tiedemann et al in view of Park et al and further in view of Sudo (USP 6,625,202).

All of these rejections are respectfully traversed.

In all of these rejections, Tiedemann et al is relied on to teach monitoring of signal strength of multiple pilot signals and the comparison of direct and multipath signals to a threshold. Detection of signal strengths on multiple pilot channels associated with respective fixed stations is old and is acknowledged as prior art at lines 22-29 of page 3 of the present specification. A distinctive aspect of the present invention, pointed out at lines 17-24 of page 5 of the specification, is the examination of time variability of the power level, not just the power

level. Examination of time variability of the power level is neither shown nor suggested in Tiedemann et al.

The examiner acknowledges that Tiedemann et al does not teach measurement parameters that include time variability of the received power level, and he relies on Park et al to teach this feature. Park et al teaches averaging power level over a period of time, and the examiner broadly reads the present claims to encompass this. But in averaging the power level the Park et al system actually obliterates any information as to time variability of the signal. So this is quite the opposite of what is done in the present invention. For example, if over a certain interval a signal had a constant value of 5 or varied between 0 and 10 with an average value of 5, Park et al would not know the difference. Thus, Park et al cannot detect time variability, and adopting the power monitoring of Park et al in Tiedemann et al would not result in the claimed invention.

It is also to be noted that the present application includes some claims (e.g., claims 2-3) which recite specific types of time variability, and the examiner has simply glossed over these specific types of time variability in his remarks. Averaging simply does not yield variance, nor does it yield a moment of order greater than two of the time distribution of the power level.

It should be noted that in claim 4 it is not recited that the time variability measurement comprises an average value, but rather it is stated that the measured parameters “further comprise” an average power level, i.e., in addition to the time variability data recited in claim 1. Note also that claim 6 draws a clear distinction between variability measurement and averaging, with time variability being measured over a first interval and averaging being done over second interval.

The examine has rejected claims 1, 25, 38 and 44 for obviousness-type double patenting over the claims of co-pending application 10/483,119 in view of Park et al.

This rejection is traversed for the same reasons discussed above. Park et al does not in fact teach measurement of parameters that include time variability of the received power level, and adding the averaging technique of Park et al to the claimed subject matter of the co-pending application would not result in the invention claimed in the present application.

New claims 47-50 are added to emphasize that time variability reflects an amount of variation rather than averaging.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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